

LEGISLATIVE BILL 78

Approved by the Governor March 25, 2005

Introduced by Baker, 44

AN ACT relating to the Nebraska Railway Council; to amend section 74-1413, Reissue Revised Statutes of Nebraska; to provide for payment of per diems and expenses by the Department of Roads; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 74-1413, Reissue Revised Statutes of Nebraska, is amended to read:

74-1413. (1) The Nebraska Railway Council is created as a body politic and corporate, not a state agency, but an independent instrumentality. The State of Nebraska shall not be responsible for the debts, contracts, general obligations, or liabilities of the council or its members or agents, including tort claims. The council shall consist of eight members to be appointed by the Governor with the approval of a majority of the Legislature as follows:

- (a) One light-density rail line shipper;
- (b) One railroad management employee;
- (c) One public service commissioner;
- (d) Two members of the general public. One member from the general public shall be a person experienced in private or public finance, and the other member from the general public shall be a person experienced in marketing;
- (e) One railroad maintenance-of-way employee;
- (f) One representative from the Department of Economic Development;

and

- (g) One representative from the Department of Agriculture.

The Director-State Engineer shall serve as an ex officio member of the council.

(2) The Governor shall appoint council members for four-year terms. In appointing the original council members, the Governor shall (a) appoint the light-density rail line shipper and one of the members of the general public for one-year terms, (b) appoint the railroad management employee and one of the members of the general public for two-year terms, (c) appoint the public service commissioner and the railroad maintenance-of-way employee for three-year terms, and (d) appoint the representatives from the Department of Agriculture and the Department of Economic Development for four-year terms. The Governor shall fill vacancies caused by any reason, except that an appointment to fill a vacancy shall be only for the remainder of the unexpired term. The Governor may remove any council member for just cause.

(3) The council members shall have an interest in and knowledge of railroads and railroad-related functions. A council member shall abstain from voting on any decision or policy of the council if the decision or policy will result in any financial benefit or detriment to him or her, any member of his or her family, or any business with which he or she is associated and the benefit or detriment is distinguishable from the effects of the actions on the public generally or a broad segment of the public.

(4) To assist the transition from the Branch Rail Revitalization Council to the Nebraska Railway Council, each member of the Branch Rail Revitalization Council serving on September 6, 1991, shall serve after such date as a member of the Nebraska Railway Council until a successor is nominated, approved, and acting as a member of the Nebraska Railway Council.

(5) Members of the council who are not employed by the State of Nebraska may receive a per diem of sixty dollars, not to exceed six thousand dollars in any one year, and all members of the council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. Such amounts shall be paid by the Department of Roads but not from the Roads Operations Cash Fund.

(6) There shall be no liability for damages on the part of and no cause of action in tort of any nature shall arise against the council or its agents or employees for any action taken by any of them in the performance of their powers and duties under the Light-Density Rail Line Assistance Act, unless the action is grossly negligent.

Sec. 2. Original section 74-1413, Reissue Revised Statutes of Nebraska, is repealed.